

CITY OF TIGARD, OREGON

ORDINANCE NO. 05-13

AN ORDINANCE ADOPTING FINDINGS TO GRANT A BALLOT MEASURE 37 WAIVER OF THE R-25 ZONING RESTRICTIONS TO BURTON GRABHORN FOR 10.5 ACRES AT THE INTERSECTION OF SCHOLLS FERRY ROAD AND 135TH AVENUE (LOT 63, HAWK'S BEARD TOWNHOMES, AND TAX LOT 14500, WCTM 1S133AC) TO ALLOW A COMMERCIAL SHOPPING CENTER, VARIOUS TENANTS/USES, AS WELL AS RETAIL SALES, VEHICLE FUEL SALES AND SIGNAGE OF THE C-G GENERAL COMMERCIAL ZONE SUBJECT TO APPLYING FOR AND RECEIVING SITE DEVELOPMENT REVIEW APPROVAL (M372005-00003).

WHEREAS, The voters of the State of Oregon passed Ballot Measure 37 in 2004; and

WHEREAS, Ballot Measure 37 provides for the responsible governing body to either pay compensation for reduced property value or waive the regulations where property is owned prior to the adoption of land use regulations; and

WHEREAS, a claim was made by Burton Grabhorn in the amount of \$4,562,360 as the net difference in the value of the property under R-25 medium-high residential zoning versus potential commercial zoning; and

WHEREAS, Mr. Grabhorn has owned the property since September, 1952 preceding the present zoning as well as City incorporation;

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The attached staff report and applicant's statement are hereby adopted as findings.

SECTION 2: A waiver from the R-25 zoning requirements is hereby granted to Burton Grabhorn to allow a commercial shopping center to be sited at the location described in the Title to this ordinance. The commercial shopping center may include retail uses, vehicle sales and other uses allowed in the C-G General Commercial zone. Site development review is required before actual development and the review shall apply the standards of the C-G zone for all development, including signage. Although the waiver is granted to Burton Grabhorn, once the site development review application is filed, application will be processed under the C-G standards even if the property is transferred after the site development review application is filed, and development may occur consistent with any approved site development review. Once the property is developed, it may continue to be used for retail and vehicle fuel sales, even if there are changes in ownership or tenants. Once Mr. Grabhorn ceases to be the owner, however, any expansion or major modification beyond development applied for during his ownership shall be subject to the rules in effect at the time of application.

SECTION 3 : This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED:

By Unanimous vote of all Council members present after being read by number and title only, this 13th day of September, 2005.

Catherine Wheatley
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 13th day of September, 2005.

C. Dirksen
Craig Dirksen, Mayor

Approved as to form:

James H. V. Rennie
City Attorney

9.13.05
Date

Agenda Item:

Hearing Date:

7
September 13, 2005 Time: 7:30 PM

**STAFF REPORT TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**



180-DAY CLAIM PROCESSING PERIOD = 12/7/2005

SECTION I. CLAIM SUMMARY

FILE NAME: GRABHORN PROPERTY COMPENSATION CLAIM
CITY CASE NO: MEASURE 37 CLAIM (M37) M372005-00003

**CLAIMANT/
OWNER:** Burton Grabhorn
14577 SE Anderson Road
Clackamas, OR 97011

**CLAIMANT'S
REPRESENTATIVE** Roger (Mike) Van
6860 SW Boeckman Road
Wilsonville, OR 97070

CLAIM: The claimant seeks a waiver and/or change in the underlying zoning and comprehensive plan designation on a 10.45 acre site from the present high-density R-25 residential zoning to C-C or C-G commercial zoning that would permit vehicle fuel sales and multiple retail tenants. The claimant is also seeking waiver to access restrictions and sign requirements. The amount claimed as compensation without such waiver or change is \$4,562,360.00

**AFFECTED
REGULATION:** Residential R-25 zoning; Comprehensive Plan designation as residential; Transportation System Plan and Development Code access restrictions; any other zoning and building code restrictions or overlay zones that preclude a commercial use; sign code restrictions.

**ZONING
DESIGNATION:** R-25: High-Density Residential District.

LOCATION: Lot 63, Hawk's Beard Townhomes; WCTM 1S133AC, Tax Lot 14500. On the south side of SW Scholls Ferry Road, between SW 130th and 135th Avenue.

**APPLICABLE
CODE CRITERIA:** Municipal Code Chapter 1.20.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the City Council review the following report and determine whether the claims are valid. Staff further recommends that City Council opt for a waiver of the regulations versus compensation as described in the conclusion section of this report.

SECTION III. BACKGROUND

The subject parcel is one of the last large vacant high density multi-family properties left in the City of Tigard. The parcel was the subject of a comprehensive plan amendment application by Haagens (Brior Development) from R-25 to G-G in 1995 (CPA 95-03). That request was denied by the City Council. The potential housing impact is a loss of approximately 260 units. At the time of that application, Metro's required housing target capacity of 10 units per acre was narrowly met at 10.46 units to the acre. The Haagens proposal would have reduced the units per acre to 10.36. No updated figures for overall housing density are available. Conversion of this property may have impacts to the City's ability to comply with Title 3 of Metro's Code. A zone change request for a similarly zoned property across the street was withdrawn in 1996 by another applicant after early deliberations from Council indicated a denial was impending, based in part due to the lost potential for housing.

SECTION III. APPLICABLE CRITERIA AND FINDINGS

Section 1.20.030 states a property owner wishing to make a claim against the City under Measure 37 shall first submit a claim to the City. A claim under Measure 37 must be in writing and include:

A. Identification of the affected property. Identification may be by street address, subdivision lot number, tax lot number, or any other information that identifies the property.

The claimant identifies the property as "SW Scholls Ferry Road, Tax Map and Tax Lot 1S133AC 14500, Subdivision Lot 63, Hawk's Beard Townhomes".

B. The name and contact information of the person making the claim, the date the Claimant acquired the property, and, if applicable, the date that a family member of Claimant acquired the property and the names and relationships of family members that are previous owners.

The name and contact information of the person making the claim is Burton Grabhorn, 14577 SE Anderson Road, Clackamas, OR 97011, (503) 658-7075. The property was acquired by the claimant on September 22, 1952 as shown in the Warranty Deed for the property.

C. A list of all persons with an ownership interest in or a lien on the property.

The title report identifies the claimant as the sole owner, and no liens on the property.

D. Identification of the regulation that is alleged to restrict the use of the affected property and a statement describing how the restriction affects the value of the property.

The claimant has generally identified the Residential R-25 Zoning, the Comprehensive Plan designation as residential, access restrictions on all abutting streets, sign code restrictions, and "any other zoning and building code restrictions or overlay zones that preclude a commercial use."

There is some question as to whether this is sufficient detail to assess the claim, but on the other hand, it may be onerous to require a list detailed to the extent of specifying each particular code section, particularly in this case since the ownership predates the entire comprehensive plan, zoning designations, and all other city land use restrictions.

E. A statement whether the Claimant prefers compensation or a waiver, suspension or modification of the regulation, and a statement describing the extent to which the regulation would need to be waived, suspended or modified to avoid the need for compensation. A description of the proposed use must be provided.

The claimant states that his preference is for a waiver, "and/or receive a commercial zoning such as C-C or C-G with vehicle fuel sales permitted." The regulation would need to be waived, suspended or modified to allow a "commercial shopping center, various tenants/uses. All retail sales." The C-C zone and C-G zone allow vehicle fuel sales as a conditional use.

F. The amount claimed as compensation and documentation supporting the amount. The documentation shall include a market analysis, an appraisal, or other documentation at least equivalent to a market analysis.

The claimant has provided a Market Analysis prepared by Mike Van Investment Real Estate. The market analysis compares similar sales in the area and the recent sale of a portion of the subject property to determine a net difference in value between commercially zoned property and the recent sale of the residential property. This analysis results in a difference of \$4,562,360.00. This analysis is provided in the applicant's attached materials.

G. The name and contact information of the Claimant's authorized representative or representatives, if applicable.

The claimant's representative is Roger (Mike) Van, 6860 SW Boeckman Road, Wilsonville, OR 97070. (503) 685-9283.

Section 1.20.080 outlines the criteria for making a decision on the compensation claim. In deciding the claim, the Decision Maker may take any of the following actions:

Deny the claim based on any one or more of the following findings:

a. The regulation does not restrict the use of the private real property.

The regulation cited includes the residential zoning districts which lists allowable uses. Prohibited uses on this list include general commercial uses. There are no valid use variance procedures to permit the desired use (retail and vehicle fuel sales) on the property. The regulation cited (residential zoning and comprehensive plan designation) is a clear restriction on the desired use (commercial) of the property.

The claimant also cites access restrictions on all abutting streets. One of these streets, SW Scholls Ferry Road is a State Highway with access controlled by ODOT (see criteria "i" below). Staff opines that a *complete* lack of access would restrict the uses on the property, or restrictions that would prevent required access for the use proposed, for example a commercial development that requires two accesses where only one is allowed, would restrict the use of property. But in this case, the applicant has access from SW Scholls Ferry Road via a settlement with ODOT, and there are points along the frontage that would meet current code requirements for access. Based on this, staff finds that a claim based on general "access restrictions" is first, not a restriction on the use of the property that prohibits a particular use of the property or makes that use only permissible under certain conditions. Second, the claim is not ripe, as no access has been prevented to the property in question (see criteria "j" below). And third, the claimant has not shown the reduction in property value based on a reduced number of accesses, the specific number as yet unknown. The market analysis only examines comparable types of commercial real estate uses in comparison to the uses presently allowed.

The claimant cites sign restrictions. Signage, while not customarily a primary use on a site, may be considered a use. Since the claimant has owned the property prior to any restrictions on signage existed, any subsequent regulation would restrict the use (whether primary or subordinate) on the property. However, as described later, the claimant's market analysis has not shown a reduction in the value of the property based on any particular sign restrictions. Sign restrictions promote public safety and prevent nuisances.

b. The fair market value of the property is not reduced by the passage or enforcement of the regulation.

The claimant has submitted a market analysis that is current and includes relevant data to determine the difference in value from the property's present high density residential designation (R-25) to the desired C-G or C-C zoning. This market analysis concludes that the net difference in value for the nearly 10½ acre site is \$4,562,360.00.

The claimant has not shown a reduction in property value from sign or access restrictions.

c. The claim was not timely filed.

The claim was filed within two years of passage of Measure 37. It was a timely filing.

d. The Claimant is not the current property owner.

According to the title information, the claimant is the current property owner.

e. The Claimant or family member of Claimant was not the property owner at the time the regulation was adopted.

The claimant has owned the property since September 22, 1952. The City was incorporated in 1961. The property was annexed into the City in 1987. The Claimant owned the property at the time the regulation was adopted.

f. The regulation is a historically and commonly recognized nuisance law or a law regulating pornography or nude dancing.

The desired zoning, C-G, permits Adult Entertainment as a conditional use. If the claim is granted, this specific use could be prohibited for this parcel.

Access restrictions relate to traffic safety. Generally, regulations that protect public safety are considered "nuisance laws".

Sign restrictions are not likely to be upheld as a historical and commonly recognized nuisance law. However, two of the stated purposes from the sign code are "to accommodate the need of sign users while avoiding nuisances to nearby properties" and "to minimize distractions for motorists on public highways and streets." Therefore depending on the type and extent of signage, the sign could possibly be deemed a nuisance. To determine whether the regulation was a historically and commonly recognized nuisance law, a specific sign proposal would need to be evaluated. It can be inferred however, that any signage that was permissible in the C-G commercial zone would not constitute a nuisance, since it is allowed elsewhere in the City, and in this particular case, the site is nearby other commercial signage and lies along an arterial route. An unexpected introduction of commercial signage, say in the heart of a residential neighborhood, could constitute a distraction to drivers or cause glare onto adjacent parcels and hence be considered a nuisance.

g. The regulation is required by federal law.

There are no known federal regulations that would require the specific use in the specific location. There are likely restrictions as to the placement of the vehicle fuel sales in relation to other adjacent properties, but these are not known to staff and are typically enforced by DEQ or EPA agencies.

The regulations related to access restrictions are not known by staff to be based on federal requirements.

The regulations related to signage restrictions are not known by staff to be based on federal requirements.

h. The regulation protects public health and safety.

Allowing retail uses or gas stations (that otherwise conform to other safety and nuisance regulations) is not a matter of public health or safety as the City clearly has examples of such uses throughout the City and still permits such uses. There are locational criteria that were established for commercial zones in order to protect neighborhoods from incompatible uses and nuisances typically associated with certain commercial type uses.

Access restrictions exist to protect the public in the form of traffic safety, to reduce conflicting turning movements as well as reduce conflicts between pedestrians, bicyclists, and motorists. But, here again, the claimant has not proposed a specific design, so the most that can be said is that the regulation requested to be waived protects public safety. The claimant would need to show through a detailed design, that the proposed access would still be safe as related to these standards.

As discussed previously, some sign restrictions relate to safety, but most are aesthetic protections on public welfare. The claimant has not specifically identified the regulation to be modified, and it would be irresponsible of the City to waive all signage restrictions absent a more detailed assessment of impacts on safety. The claimant would need to show through a detailed design, that the proposed signage would not cause impacts to traffic or general public safety.

i. The City is not the entity responsible for payment. The City is not responsible if the challenged law, rule, ordinance, resolution, goal or other enactment was not enacted or enforced by the City.

The City may not have originally designated the property for residential use. Since this property was in the unincorporated county up until its annexation in 1987, and zoning was generally instituted in the 1970's, it is likely the county had originally designated the property for residential use. The City, upon annexation likely continued this designation but adopted the nearest conforming zone for high density residential. Nevertheless, the discussion is moot, since the City enacted the present zoning designation, and is the jurisdiction responsible for enforcing the rules being challenged.

j. The City has not taken final action to enforce or apply the regulation to the property for which compensation is claimed.

No detailed development plan or land use proposal has been reviewed or final action taken on to apply the challenged regulations. The City had issued notices of infractions based on improper signage on the site previously, but the thrust of this compensation claim is based on the desire for commercial zoning or permission to develop retail uses. Signage rules are also listed, but the compensation analysis does not provide any relevant information pertaining to this regulation. Staff notes that it is clear that a request for retail development under the present zoning would not be approved without a waiver of those rules, and suggests that a development plan be filed as further described in this report to determine to what extent the regulations in fact affect the property.

k. The City has not established a fund for payment of claims under Measure 37.

No such fund has been established at this time.

l. The Claimant is not legally entitled to compensation for a reason other than those listed in subsections a through k.. The basis for this finding must be clearly explained.

Staff finds no other reasons, aside from those already listed, to deny the claim.

2. Pay compensation, either in the amount requested or in some other amount supported by the evidence. If the City pays compensation, the City shall continue to apply and enforce the regulation. Any compensation shall be paid from funds appropriated for that purpose. The City may require any person receiving compensation to sign a waiver of future claims for compensation under Measure 37 and the City may record that waiver with the County Recorder.

Under Measure 37, only the current property owner is entitled to a waiver, and the waiver is limited to specific property. However, to properly implement Measure 37, the property owner must be able not only to develop the property, but to transfer the developed property to a third party, but without crating any Measure 37 rights in the new owner. Staff proposes that the waiver be to the person, Mr. Grabhorn, but that any development resulting from applications filed during Mr. Grabhorn's ownership be allowed to be built and maintained even if transferred. If the property is sold, expansions and major modifications would be subject to the standards in effect at the time of application. The City Council will need to make a determination of whether funds may be appropriated to pay the claim. Staff finds that the evidence supports the amount requested, but suggests that the City conduct its own market analysis prior to paying any such a claim.

3. Waive or not apply the regulation to allow the owner to use the property for a use permitted at the time the Claimant acquired the property.

The City Council shall decide whether to pay the claim or waive the regulation. Staff recommends that should a waiver be granted, it shall run with the person, not the land, and shall be a specific exemption to allow retail uses and vehicle fuel sales in the R-25 zone for that parcel as it presently is configured.

4. Modify the regulation so that it does not give rise to a claim for compensation. Any such modification shall be for the specific property only unless the City follows the procedure for a legislative land use decision.

Insofar as waiving the restriction on the particular use of the property, staff opines that the modification shall apply only to this property, but shall run with the claimant and his qualifying heirs, not run with the land. Site Development Review procedures should be applied to application by Mr. Grabhorn for retail development on the site, and the proposal will be subject to standard application of other development code regulations to the extent that they do not prevent the retail use from being established. The applicant should also be required to submit signage details with the SDR application, so that staff may apply the rules generally governing C-G zone signage. This will avoid the need to file a new Measure 37 claim prior to obtaining signage. Staff will need to make findings regarding the signage based on whether or not the proposed signs impact public safety, or constitute a nuisance.

With regard to the access restrictions, staff believes that there are opportunities for conforming points of access on site, and recommends that a waiver not be granted until it can be clearly shown that the particular access restriction prevents the desired use from occurring on the property.

5. Conditionally waive or suspend the regulation subject to receipt of a defined amount of contributions toward compensation by a specified date from persons opposed to the waiver or suspension, such as persons who believe they would be negatively affected by waiver or suspension, with the waiver or suspension being granted if the defined amount of contributions is not received by the specified date. If the contributions are received, compensation shall be paid within 180 days of the date the claim was filed. The specified date shall allow the City time to process the contributions and pay compensation.

No contributions for compensation have been identified at this time.

The Decision Maker may take other actions it deems appropriate in individual circumstances, may modify the listed actions, and/or may combine the listed actions, consistent with Measure 37. The Decision Maker may negotiate an acceptable solution with the Claimant or may direct staff to negotiate with the Claimant. In the event that the Decision Maker directs staff to negotiate, the matter shall be set for further action by the Decision Maker no less than 175 days from the date of the notice of claim became complete. The Council shall take final action within 180 days of the claim. The Decision Maker shall take actions 2 through 5 only if it determines the claim is valid.

The Staff recommendation is a combination of the above actions: waive the regulations related to the use restriction to allow the claimant to establish retail sales and vehicle fuel sales on site; condition this waiver on the stipulation that the exemption run with the claimant for the specific parcel as configured; require standard application of the site development review procedures and development standards; and allow signage that conforms to the C-G or C-C commercial zones, subject to a finding that public safety is not affected and a nuisance is not created; deny the claim for access restrictions as untimely and not substantiated. No actual compensation is recommended under this scenario.

A decision by a Decision Maker other than Council shall not be a final decision, but shall be a recommendation to Council.

This report represents only a recommendation to the City Council and is not a final decision of the City.

SECTION IV. CONCLUSION

Staff finds that there are three elements of this claim: allowable use; access restrictions; signage restrictions. Based on the information presented by the claimant and the findings contained in this report, staff finds merit in the claim for permissible uses, and concludes that this claim is valid. The fair market analysis is based on current and sound market data, and while not making a judgment on the specific numbers, staff believes that the amount of compensation requested is roughly accurate.

With regard to the access restrictions, staff finds the claim should be denied based on the claimants failure to properly substantiate the claim with a market analysis, the fact that the restriction is not a restriction on use, and that the city has not applied or enforced this restriction on this property. Moreover, there are aspects of public safety at stake, which require the city reserve the ability to review the access locations and restrict their location and design as appropriate, provided such restrictions do not prevent the desired use (retail and vehicle fuel sales) from being established.

As for the signage limitations, the claimant has failed to substantiate the claim with a market analysis, however, staff finds that it is likely that under current signage requirements for the R-25 zone, the desired use (retail and vehicle fuel sales) will not be feasibly permitted to operate. Therefore, to avoid the need to return to this matter with a separate Measure 37 claim, staff recommends that signage be allowed on the condition that it is accompanied by a detailed development plan proposal (for Site Development Review), adheres to the requirements of other C-G or C-C zones, and is found to not affect public safety or constitute a nuisance.

An ordinance adopting the staff report and applicant's statement as findings and establishing a waiver of the R-25 zoning to allow C-G zoning subject to standard site development review is attached as Attachment 2.

APPROVED BY: Dick Bewersdorff
Planning Manager

August 23, 2005
DATE



PROCEDURE FOR BALLOT MEASURE 37 COMPENSATION CLAIM

13125 SW Hall Blvd., Tigard, OR 97223 503-639-4171 FAX: 503-684-7297

The claim must be in writing and include the information listed below. The claim shall not be considered filed until all of the requirements of the procedure are met.

FOR STAFF USE ONLY

Sept 2005 - 2673

Case No.: M 37 2005-00003
Date: 6/20/05

Application Accepted By: KJP
Date Determined Complete: _____

Deposit: \$1,000 (Deposit to be refunded if claim is determined to be valid. If claim is denied and ultimately determined invalid, the claimant shall reimburse the City for the costs the City incurs in processing the claim. If reimbursement exceeds the deposit, the claimant shall pay any additional amount within 30 days of a demand by the City for full payment. If costs are less than the deposit, the difference will be refunded to the claimant.)

IDENTIFICATION OF AFFECTED PROPERTY

Property Street Address/Location(s): SW SCHOLLS FERRY Rd
SEE ATTACHED TITLE REPORT AND MAP
Tax Map & Tax Lot #(s): 4 S 133 AC 14500
Subdivision Lot #(s): LOT 63, HAWKS BEARD TOWN HOMES

CLAIMANT INFORMATION

Property Owners/Claimants/Deed Holders*: BURTON GRABHORN
Address: 14577 SE ANDERSON Rd Phone: 503-658-7075
City/State: Clackamas, OR Zip: 97011
(Attach list if more than one)

Date Claimant Acquired Property: SEPT 22, 1952

Date Family Member of Claimant Acquired Property (if applicable): _____

Names and Relationships of Family Members that are Previous Owners (if applicable): _____

(Attach list if additional space is needed)

Lien/Security Interest Holders of the affected property: NONE

Address: _____ Phone: _____

City/State: _____ Zip: _____
(Attach list if more than one)

* When the owner and the applicant are different people, all owners of the affected property must sign this application in the space provided on the back of this form. If the affected property is owned by two or more persons and not all owners seek compensation, all owners who do not seek compensation shall sign a waiver of the right to compensation.

REGULATION RESTRICTING USE

Identify the regulation that is alleged to restrict use of affected property. Provide a statement describing how the restriction affects the value of the property. (Attach additional materials as necessary)

- ① RESIDENTIAL R-25 ZONING
 ② COMPREHENSIVE PLAN DESIGNATION AS RESIDENTIAL.
 ③ WAIVER OF ACCESS RESTRICTIONS, ON ALL ADJACENT STREETS.
 ④ ANY OTHER ZONING AND BUILDING CODE RESTRICTIONS OR OVERLAY ZONES THAT PRECLUDE A COMMERCIAL USE.
 ⑤ SIGN CODE RESTRICTIONS.

Provide a statement of whether claimant prefers compensation or a waiver, suspension, or modification of the regulation.

WAIVER
AND OR RECEIVE A COMMERCIAL ZONING
SUCH AS C-2 OR C-3 WITH VEHICLE FUEL SALES PERMIT

Include a statement describing the extent to which the regulation would need to be waived, suspended, or modified to avoid the need for compensation. A description of the proposed use must be provided. (Attach additional materials as necessary)

COMMERCIAL SHOPPING CENTER, VARIOUS
TENANTS/USES. ALL RETAIL SALES.

AMOUNT OF COMPENSATION

The amount claimed as compensation: \$4,562,360.00

Provide documentation supporting the amount. Said documentation shall include a market analysis, appraisal, or other documentation at least equivalent to a market analysis.

Claimants' Authorized Representative(s) if applicable.

ROGER (MIKE) VAN PH 503-685-9283
6860 SW BOECKMAN RD CELL 503-807-7555
WILSONVILLE OR 97070 FAX 503-682-1747

SIGNATURES of each owner of the subject property.

DATED this 8th day of JUNE 9th, 2005

Owner's Signature

Owner's Signature

Owner's Signature

Owner's Signature

VIA FAX

Mike Van Investment Real Estate

RECEIVED 8/5/05

AUG 5 2005

CITY OF TIGARD
BUILDING DIVISIONMORGAN TRACY
CITY OF TIGARDRE: BALLOT MEASURE 37 CLAIM
By BURTON GRABHORNThe TITLE REPORT YOU REQUESTED
IS ATTACHED. (DATED AUG 5, 2005)MIKE VAN.

8/5/2005 10:08 PAGE 002/005 Fax Server


First American

First American Title Insurance Company of Oregon
 222 SW Columbia Street, Suite 400
 Portland, OR 97201
 Phn - (503) 222-3651
 Fax - (503) 790-7858

Michelle Johnson, Title Officer
 Toll Free: (800) 929-3651
 Direct: (503) 790-1822
 Email: mjohnson@firstam.com

Mike Van Investment Real Estate
 6860 SW Boeckman Rd
 Wilsonville, OR 97070

Order No.: 7019-517632
 August 05, 2005

Attn:
 Phone No.: (503) 685-9283 - Fax No.: (503) 682-1747
 Email:

Re:

Preliminary Title Report

ALTA Owners Standard Coverage	Liability \$	Premium \$	
ALTA Owners Extended Coverage	Liability \$	Premium \$	
ALTA Lenders Standard Coverage	Liability \$	Premium \$	
ALTA Lenders Extended Coverage	Liability \$	Premium \$	
Endorsement 100, 116 & 8.1		Premium \$	50.00
Govt Service Charge		Cost \$	50.00
Other		Cost \$	

We are prepared to issue Title Insurance Policy or Policies in the form and amount shown above, insuring title to the following described land:

Lot 63, HAWK'S BEARD TOWNHOMES, in the City of Tigard, County of Washington and State of Oregon

and as of July 27, 2005 at 8:00 a.m., title vested in:

Burton E. Grabhorn

Subject to the exceptions, exclusions, and stipulations which are ordinarily part of such Policy form and the following:

1. Taxes for the fiscal year 2005-2006 a lien due, but not yet payable.
2. City liens, if any, of the City of Tigard.

This report is for the exclusive use of the parties herein shown and is preliminary to the issuance of a title insurance policy and shall become void unless a policy is issued, and the full premium paid.

8/5/2005 10:06 PAGE 003/005 FAX SERVER

Preliminary Report

Order No.: 7019-517632
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3. The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for Farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed.
4. Statutory powers and assessments of Clean Water Services.
5. Easement, including terms and provisions contained therein:
Recording Information: May 5, 1989 as Fee No. 89020392
In Favor of: The Public
For: Slope
Affects: The Westerly 5 feet
6. Limited access provisions in favor of the State of Oregon, by and through its State Highway Commission as contained in Decree of Condemnation entered March 3, 1992 in Sult No. C90-114CV in the Circuit Court/Superior Court from Washington County, which provides that no right of easement or right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.
7. Easement, including terms and provisions contained therein:
Recording Information: March 3, 1992 as Fee No. 92018168
For: Slope, water, gas, electric...etal
8. Restrictions shown on the recorded partition plat 2000-007 .
9. Easement on the recorded plat/partition as follows: " A public utility easement and a private drainage easement in favor of Autumn Park Townhomes Owners Association shall exist along all lot frontages as noted on the plat."
10. Easement on the recorded plat/partition as follows: "All lots fronting a public stret are subject to a landscape easement, coincident with the public utility easement, as shown in favor of the City of Tigard."
11. Restrictions shown on the recorded plat/partition of Hawk's Beard Townhomes.

- END OF EXCEPTIONS -

NOTE: Taxes for the year 2004-2005 PAID IN FULL

Tax Amount:	\$64,036.22
Map No.:	1S133AC14500
Property ID:	R2121557
Tax Code No.:	051.58

NOTE: According to the public record, the following deed(s) affecting the property herein described have been recorded within 12 months of the effective date of this report: NONE

NOTE: Washington County Ordinance No. 267, filed August 5, 1982 in Washington County, Oregon, imposes a tax of \$1.00 per \$1,000.00 or fraction thereof on the transfer of real property located within Washington County.

First American Title

8/5/2005 10:08 PAGE 004/005 Fax Server

Preliminary Report

Order No.: 7019-517632
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Certain conveyances may be exempt from said ordinance, in which case, Washington County will require a correct and timely filing of an Affidavit of Exemption. For all deeds/conveyance documents which are recorded (including situations to meet lender requirements) either the transfer tax must be paid or affidavit acceptable to the County must be filed.

Situs Address as disclosed on Washington County Tax Roll:

Not assigned, Tigard, OR

**THANK YOU FOR CHOOSING FIRST AMERICAN TITLE!
WE KNOW YOU HAVE A CHOICE!**

RECORDING INFORMATION

Filing Address:

Washington County
155 North 1st Avenue
Hillsboro, OR 97124-3087

Recording Fees: \$ **5.00** per page
\$ **6.00** per document (Public Land Corner Preservation Fund)
\$ **11.00** per document (OLIS assessment & Taxation Fee)
\$ **5.00** for each additional document title
\$ **20.00** non-standard fee

Preliminary Report

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First American Title Insurance Company of Oregon

SCHEDULE OF EXCLUSIONS FROM COVERAGE

ALTA LOAN POLICY (10/17/92)

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

- (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy;
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy;
- Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
- Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or the claimant's interest is afforded benefit as to assessments for street improvements under construction or completed at date of policy); or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
- Unenforceability of the lien of the insured mortgage because of the inability of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable "doing business" laws of the state in which the land is situated.
- Irrevocability or unenforceability of the lien of the insured mortgage, or claim thereon, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
- Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
- Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
 - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

ALTA OWNER'S POLICY (10/17/92)

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

- (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy;
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy;
- Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
- Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy;
- Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
- (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

SCHEDULE OF STANDARD EXCEPTIONS

The ALTA standard policy form will contain in Schedule B the following standard exceptions to coverage:

- Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notice of such proceedings, whether or not shown by the records of such agency or by the public records.
- Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
- Especially, claims of assessment or encumbrances which are not shown by the public records, unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
- Any lien, or right to a lien, for services, labor or material furnished or hereafter furnished, imposed by law and not shown by the public records.
- Discrepancies, conflicts in boundary lines, shortages in area, encroachments, or any other facts which a correct survey would disclose.

NOTE: A SPECIMEN COPY OF THE POLICY FORM (OR FORMS) WILL BE FURNISHED UPON REQUEST

TA 149 Rev. 5-99



First American

First American Title Insurance Company of Oregon
1700 SW Fourth Ave, Ste 102
Portland, OR 97201
Phn - (503) 222-3651
Fax - (503) 790-7858

MULTNOMAH COUNTY TITLE UNIT

FAX (503) 790-7858

Title Officer: **Michelle Johnson**
(503) 222-3651

MEASURE 37 LOT BOOK SERVICE

Mike Van Investment Real Estate
6860 SW Boeckman Rd
Wilsonville, OR 97070

Order No.: 7019-517632

February 15, 2005

Attn:
Phone No.: (503) 685-9283 - Fax No.: (503) 682-1747
Email:

Re:

Fee: \$500.00

We have searched our Tract Indices as to the following described property:

Lot 63, HAWK'S BEARD TOWNHOMES, in the City of Tigard, County of Washington and State of Oregon

and as of February 9, 2005 at 8:00 a.m.

We find that the last deed of record runs to

Burton E. Grabhorn

We also find the following apparent encumbrances within ten (10) years prior to the effective date hereof:

1. The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for Farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed.
2. Statutory powers and assessments of Clean Water Services.
3. Easement, including terms and provisions contained therein:
Recording Information: May 5, 1989 as Fee No. 89020392
In Favor of: The Public
For: Slope
Affects: The Westerly 5 feet

First American Title

4. Limited access provisions in favor of the State of Oregon, by and through its State Highway Commission as contained in Decree of Condemnation entered March 3, 1992 in Suit No. C90-114CV in the Circuit Court/Superior Court from Washington County, which provides that no right of easement or right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.
5. Easement, including terms and provisions contained therein:
Recording Information: March 3, 1992 as Fee No. 92018168
For: Slope, water, gas, electric...etal
6. Restrictions shown on the recorded partition plat 2000-007 .
7. Easement on the recorded plat/partition as follows: " A public utility easement and a private drainage easement in favor of Autumn Park Townhomes Owners Association shall exist along all lot frontages as noted on the plat."
8. Easement on the recorded plat/partition as follows: "All lots fronting a public stret are subject to a landscape easement, coincident with the public utility easement, as shown in favor of the City of Tigard."
9. Restrictions shown on the recorded plat/partition of Hawk's Beard Townhomes.

We have also searched our General Index for Judgments and State and Federal Liens against the Grantee(s) named above and find:

NONE

We also find the following taxes and city liens:

1. City liens, if any, of the City of Tigard.

NOTE: Taxes for the year 2004-2005 PAID IN FULL

Tax Amount: \$64,036.22
Map No.: 1S133AC14500
Property ID: R2121557
Tax Code No.: 051.58

In our search for recorded deeds to determine the vestee herein we find the following:

Document	Recorded	Book	Page	Fee No.
Warranty Deed	January 6, 1951	316	11	
Warranty Deed	October 6, 1986			86 045562

EXECUTED SEPT 22, 1952
RECORDED 1986

THIS IS NOT a title report since no examination has been made of the title to the above described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listing do to include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection wit this Measure 37 Lot Book Service and will not be responsible for errors or omissions therein. The charge for this service will not include supplemental reports, rechecks or other services.



First American Title Insurance Company of Oregon

An assumed business name of TITLE INSURANCE COMPANY OF OREGON

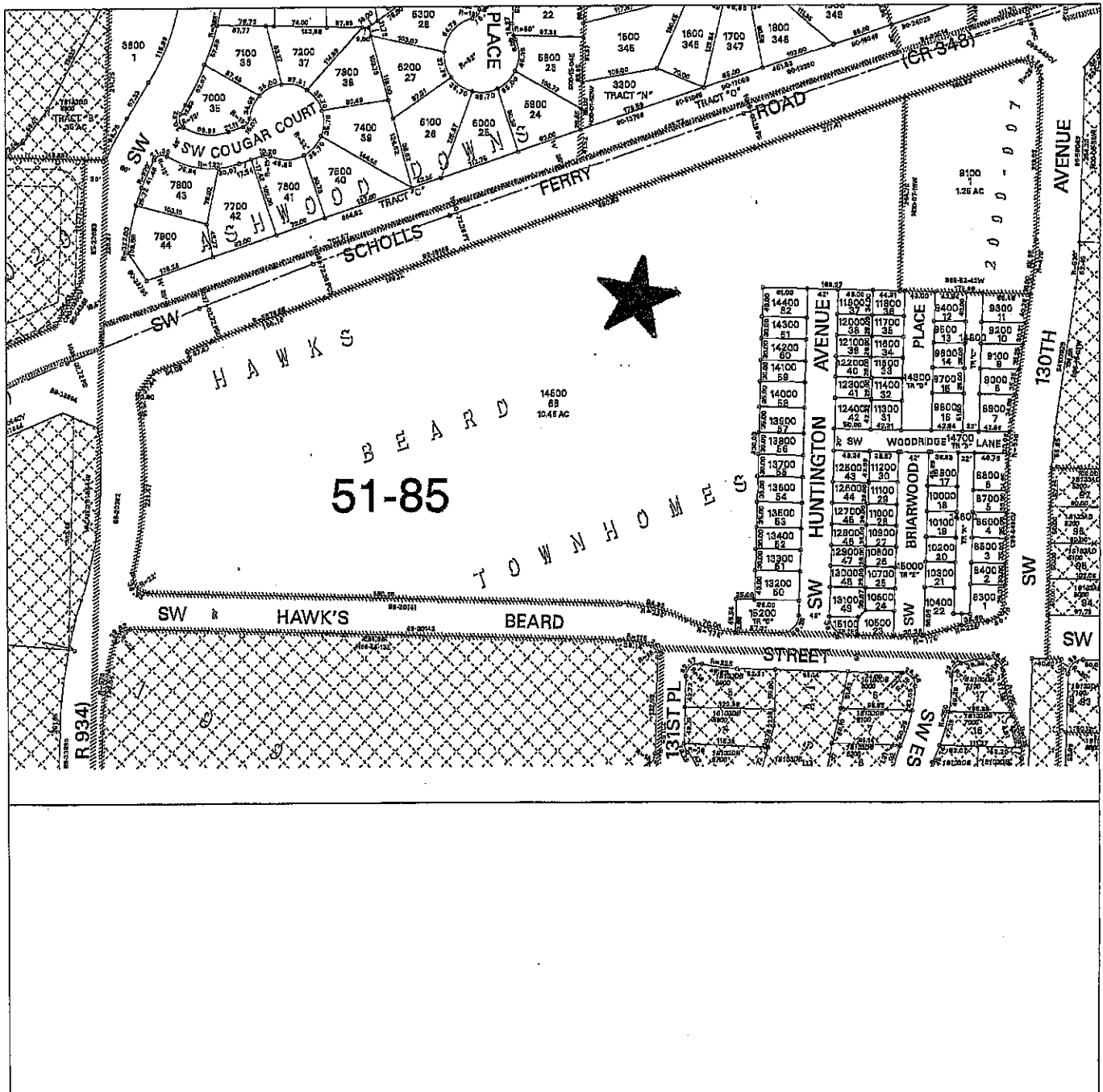
1700 SW Fourth Avenue Portland, OR 97201-5512

Phone: (503) 222-3651

This map is provided as a convenience in locating property

First American Title Insurance Company assumes no liability for any variations as may be disclosed by an actual survey

Reference Parcel Number 1S133AC 14500



FORM 20-1 WARRANTY DEED

86045562

KNOW ALL MEN BY THESE PRESENTS, That No. Lucinda Grabhorn and
 Fred B. Grabhorn, wife and husband
 in consideration of Ten and no/100 Dollars
 consideration less than \$100. no revenue stamps required
 to be paid by Burton E. Grabhorn
 do hereby grant, bargain, sell and convey unto said Burton E. Grabhorn

his heirs and assigns, all the following real property, with the tenements,
 hereditaments and appurtenances, situated in the County of Washington and State
 of Oregon, bounded and described as follows, to-wit:

PARCEL 1: Lot 30, WILLARD AND VAN SCHUYVER TRACT, in the County of
 Washington and State of Oregon;
 PARCEL 11: A part of the West one-half of the East one-half of Section 33,
 Township 1 South, Range 1 West of the W.M., Washington County, Oregon,
 more particularly described as follows:

Beginning 11.66 chains South of the quarter section corner on the North
 line of said section and on the North and South center line of said section
 at a point at the most Westerly Southwest corner of a tract conveyed to
 C.H. VanKleeck and ux, by deed recorded in book 89, page 405, June 30, 1905
 dated January 10, 1903; thence South along said North and South center
 section line 29.27 chains to the center of said section; thence continuing
 South along said center section line 15 chains, thence East on a line
 parallel with the East and West center line of said Section and North of
 Lot 4, Ash Valley Tract, 12 chains to a point on the West line of a tract
 conveyed to John R. Scoles; et ux, by deed recorded in book 291, page
 558, December 20, 1947; thence North parallel with the said North and
 South center line along the West line of said Scoles tract 18 chains;
 thence East along the said East and West center section line and along
 the North line of said Scoles tract 8 chains to the East line of the
 West one-half of the East one-half of said section; thence North parallel
 with said North and South section center line and along the West line of
 a tract conveyed to Vincent Olsen by deed recorded in book 225, page 248,
 December 17, 1943, 13.38 chains to the center of Scholls Ferry road; thence
 South 70° West along the center of said road 10.45 chains to a point on
 the most Easterly West line of said Van Kleeck tract; thence North 18.50
 chains along the said Van Kleeck boundary line to a point on the most
 Northerly South line of said Van Kleeck tract; thence West along said
 Van Kleeck South line 10 chains to the point of beginning, in Washington
 County, Oregon.

To Have and to Hold the above described and granted premises unto the said

BURTON E. GRABHORN

his heirs and assigns forever.

And the grantor
 above named do covenant to and with the above named Grantee, his heirs and assigns
 that we, the grantor, lawfully seized in fee simple of the above granted premises, that the above
 granted premises are free from all encumbrances.

and that we, the grantor, will and our heirs, executors and administrators shall warrant and forever
 defend the above granted premises, and every part and parcel thereof, against the lawful claims and demands
 of all persons whomsoever.

Witness Our hands and seals, this 22 day of September, 1952.

Executed in the Presence of

Edwin M. Bence (SEAL) *Lucinda Grabhorn* (SEAL)
John R. Scoles (SEAL)
John R. Scoles (SEAL)

RECORDED
 1986

OCT 6 1986

STATE OF OREGON,

County of Washington

BE IT REMEMBERED, That on this 22 day of September 1952, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Fred B. Grabhorn and Lucinda Grabhorn, husband and wife, known to me to be the identical individual described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public for Oregon.

My Commission expires 02-1-1955.

WARRANTY DEED

Form No. 29

Lucinda Grabhorn & L.A.L.

to

ELSON A. GRABHORN

STATE OF OREGON.

County of

I certify that the within instrument was received for record on the 19 day of 6 O'clock, P.M. and recorded in book Record of Deeds of said County.

Witness my hand and seal of Office this

County Clerk-Recorder

By

Deputy

AFTER RECORDING RETURN TO

Frederick E. Grabhorn

11493 SE 82nd

Portland, Or. 97266

STATE OF OREGON

County of Washington

I, Donald W. Mason, Director of Assessment and Taxation and Ex-Officio Recorder of Conveyances for said county, do hereby certify that the within instrument of writing was received and recorded in book of records of said county.

Donald W. Mason, Director of Assessment and Taxation, Ex-Officio County Clerk

1986 OCT -6 PM 2:05

Mike Van Investment Real Estate

6/10/2005

Burton Grabhorn
14577 S.E. Anderson Road
Clackamas, Oregon 97011

RE: Your 10.5 acres in Tigard, Oregon

Dear Mr. Grabhorn,

At your request, I have prepared a market analysis of your property referenced above.

As you are aware, I am not a Real Estate Appraiser and this analysis should not be construed or interpreted as an appraisal.

I am a licensed Real Estate Broker in Oregon and I do specialize in listing and selling development land among other investment types of real estate.

My market analysis is based on the following assumptions:

1. You are successful in achieving a ballot measure 37 claim with a result of a waiver of all zoning restrictions imposed on the property or adopted by governing agencies since the date you purchased the property. (September 22, 1952)
2. That you are successful in obtaining permits as needed, if any, to develop the property into a commercial retail shopping center.
3. The property would be placed on the market for a reasonable time period, advertised and exposed to buyers through direct mailings and internet website postings.

Sincerely,

Mike

Mike Van
Mike Van Investment Real Estate
6860 SW Boeckman Road
Wilsonville, Oregon 97070
Office: 503-685-9283
Fax: 503-682-1747
Cell: 503-807-7555
Email: MVINVESTMENT@aol.com

6860 SW Boeckman Rd., Wilsonville, 97070 • Phone (503) 685-9283 • Fax (503) 682-1747 • CCB# 147989
E-mail Address: MVINVESTMENT@AOL.COM • Cell: (503) 807-7555

Mike Van Investment Real Estate

Burton Grabhorn Property
Comparative Market Analysis
Lot 63, Hawks Beard Town homes
City of Tigard, Washington County, Oregon

Property

Description: 10.5 + - acres that is bordered on the North by S.W. Scholls Ferry Road, on the West by S.W. 135th Street, on the South by Hawks Beard Town Homes plat, lots 1 through 62.
The property is currently zoned R-25, medium density residential. Access is available to the site from S.W. 135th Avenue on the West, Hawks Beard Street on the South, S.W. Huntington Avenue near the Northeast corner of the property.
Additional access should be available from S.W. Scholls Ferry Road for a right in, right out access for east bound traffic.
A previous lawsuit/condemnation issue with the Oregon Department of Transportation was resolved with a provision that ODOT would not object to such access if it was approved by the City of Tigard.

Topography: Gently sloping from North to South.

Flood Plain

& Wetlands: The land is not impacted by or within a flood plain, nor are any wetlands present.

Current

Value: In April of 2003, Grabhorn sold just less than 4 acres that was a portion of this site for a price of \$337,000.00 per acre. Since that date, he has received an offer to purchase from the same buyers, a 4 acre portion of the property at a price of \$400,000.00 per acre.
A liberal value on the high end of the price scale would be a value of \$500,000.00 per acre or \$5,500,000.00.

Proposed

Use: The owner's proposing a neighbor hood shopping center.

Domestic
Water:

City of Tigard water is available to the site.

Mike Van Investment Real Estate

Sewage
Disposal
System: City of Tigard sanitary sewer is available in Hawks Beard Street.

Electricity: Portland General Electric.

Storm
Water: City of Tigard storm sewer lines are available near Hawks Beard Street.

Restrictive
Land Use
Statutes: City of Tigard R-25 residential zoning sign code, access restrictions if any,
and overlay zones or tree cutting ordinances if any apply.

Value if
Proposed
Use is
Allowed: See the attached market analysis prepared by Mike Van, Broker, Mike
Van Investment Real Estate.

Claim for
Damages: \$4,562,360.00

Owner
Preference: Waiver of all land use ordinances adopted by the State of Oregon,
Washington County, the City of Tigard since the date the owner obtained
title that prevent construction of the shopping center.

Burt Grabhorn Property
SW 135th Ave. at SW Scholls Ferry Rd. Tigard, Oreogn
Comparable Sales/Market Analysis

<u>Property #</u>	<u>Description</u>	<u>Acreage Size</u>	<u>Sales Price</u>	<u>Price per Sq. Ft.</u>	<u>Date of Sale</u>
1	Westside of 72nd, North of Dartmouth, Neighborhood/Community center site Tigard, Oregon Reimbold Properties, Buyer	3.15 Acres	\$2,436,358.00	\$17.76	4/16/2000
2	8585 SW Cascade Ave. Beaverton, Oregon strip center site NSHE Cascade, LLC, Buyer	6.71 Acres	\$5,400,000.00	\$18.47	9/29/2004
3	Northside of SW Beaverton-Hillsdale Highway just West of Sw Griffith Drive, Beaverton, Oregon (Bank Pad.) Buyer was Wellsfargo Bank	1.58 Acres	\$2,100,000.00	\$30.51	Oct. 2004
4	3585 SW Hall blvd. Beaverton, Oregon Buyer was Hall Street Appliance, LLC	2.14 Acres	\$2,700,000.00 less \$50,000.00 demolition costs, or \$2,650,000.00	\$28.96	Feb. 2004
5	Subject 10.5 acres as a community or neighborhood shopping center (457,380 sq. ft.)	10.5 Acres	Projected conservatively at \$22.00 per sq. ft. or \$10,062,360.00	\$22.00	Not Sold

The projected current value as zoned is \$5,500,000.00

The projected value as a shopping center site is \$10,062,360.00

The difference in value is \$4,562,360.00

W side 72nd/N of Dartmouth Published

Tigard, OR 97223 -8655

Neighborhood/Community Center Site of 137,214 SF Sold for \$2,436,358

buyer

Rembold Properties (LLC)
 c/o Wayne C. Rembold
 1022 SW Salmon St
 Portland, OR 97205
 (503) 222-7258

Photo N/A, Land Sale

seller

Winco Foods
 c/o Gary R. Piva

vital data

Sale Date:	04/06/2000	Sale Price:	\$2,436,358
Escrow/Contract:	2 years	Status:	Confirmed
Days on Market:	N/Ap	Down Pmnt:	\$1,436,358
Exchange:	Tax Dfrd	Pct Down:	59%
Conditions:	None	Doc No:	00027608
Zoning:	C-G,Tigard	Trans Tax:	(\$2,437.00)
Frontage:	599' 72nd (est)	Submarket:	Tigard
		Topography:	Level
		Structures:	None
		Land Improvements:	Finished lot
		Offsites:	All to site
		Lot Dimensions:	Irregular
		Corner:	Yes
Comp No:	WAC-42177-05-0020	Property Type:	Commercial Land
Intended Use:	To construct a shopping center		

income/expense

	Gross Acreage	Net Acreage
Acres:	3.150	N/Av
Price/Acre:	\$773,447	N/Av
SF:	137,214	N/Av
Price/SF:	\$17.76	N/Av

listing broker

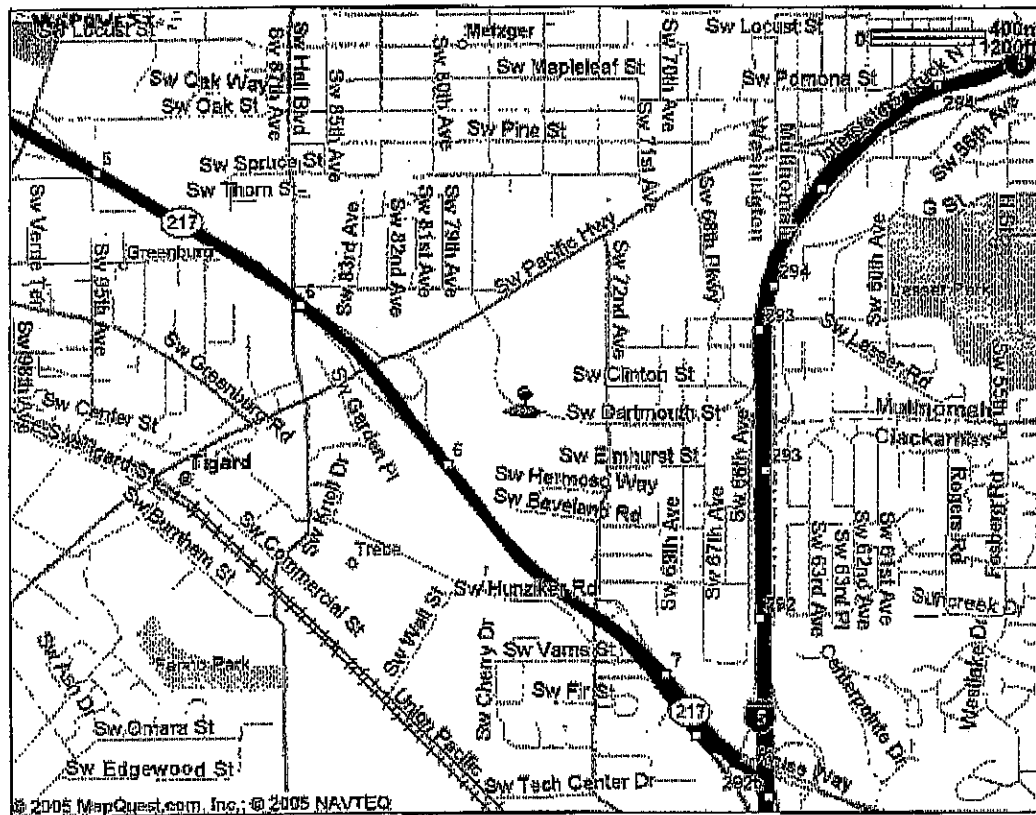
Robert Niehaus Co.
 4380 SW Macadam Ave Ste. 210
 Portland, OR 97201
 (503) 295-3791
 Bob Niehaus

buyers broker

Robert Niehaus Co.
 4380 SW Macadam Ave Ste. 210
 Portland, OR 97201
 (503) 295-3791
 Bob Niehaus

financing

1st First Security Bank(Const, VIR, due in 1 yrs)
 Bal/Pmt: \$4,992,500
 2nd (due in 1 yrs)
 Bal/Pmt: \$1,000,000



This site map is derived from MapQuest.com Inc. No opinion is expressed concerning the accuracy of any information contained herein.

description

Financing:

1st First Security Bank \$4,992,500 Const, VIR, due in 1 yrs
2nd \$1,000,000 due in 1 yrs

* Exchange: This was the seller's downleg in a 1031 exchange.

Total Assessed: \$679,210
Year Assessed: 1999

Doc Num / Transfer Tax
00027608 (\$2,437)

Recording Date: 04/06/2000

Confirmed by: Karla Miranda
Date: 05/16/2000
Email: qualitycontrol@costar.com
Phone: (888) 636-8389
Updated Date: 05/19/2000

8585 SW Cascade Ave *Published*

Tyco / Viewmaster Bldg (formerly)

Beaverton, OR 97008 -7178

Strip Center Site (portion) of 292,288 SF Sold for \$5,400,000

buyer

NSHE Cascade, LLC

c/o Randy Kyte

1121 SW Salmon St

Portland, OR 97205-2000

(503) 242-2900

seller

Hall Street Associates, LLC

c/o Josef Diamond

3301 Monte Villa Pkwy

Bothell, WA 98021-8972

(425) 489-9899

Photo N/Ap, Land Sale

vital data

Sale Date:	09/29/2004	Sale Price:	\$5,400,000
Escrow/Contract:	270 days	Status:	Confirmed
Days on Market:	240 days	Down Pmnt:	\$5,400,000
Exchange:	No	Pct Down:	100%
Conditions:	Expansion	Doc No:	04113044
Zoning:	GC, Beaverton	Trans Tax:	(\$5,400.00)
Frontage:	400' SW Cascade Ave	Submarket:	217 Corridor/Beaverton
		Topography:	Sloping
		Structures:	193,000 SF Ind Bld (Teardown)
		Land Improvements:	Fully Improved Lot
		Offsites:	All to site
		Lot Dimensions:	Irregular
		Corner:	No
Comp No:	WAC-47637-10-0420	Property Type:	Commercial Land
Intended Use:	To expand the adjacent Cascade Plaza Shopping Center.		

income/expense

	Gross Acreage
Acres:	6.710
Price/Acre:	\$804,769
SF:	292,288
Price/SF:	\$18.47

Net Acreage

N/Av

N/Av

N/Av

N/Av

listing broker

GVA Klidder Mathews

1 Sw Columbia St

Portland, OR 97258 -2002

(503) 221-9900

Mark D Fraser, SIOR

buyers broker

None Involved per principal

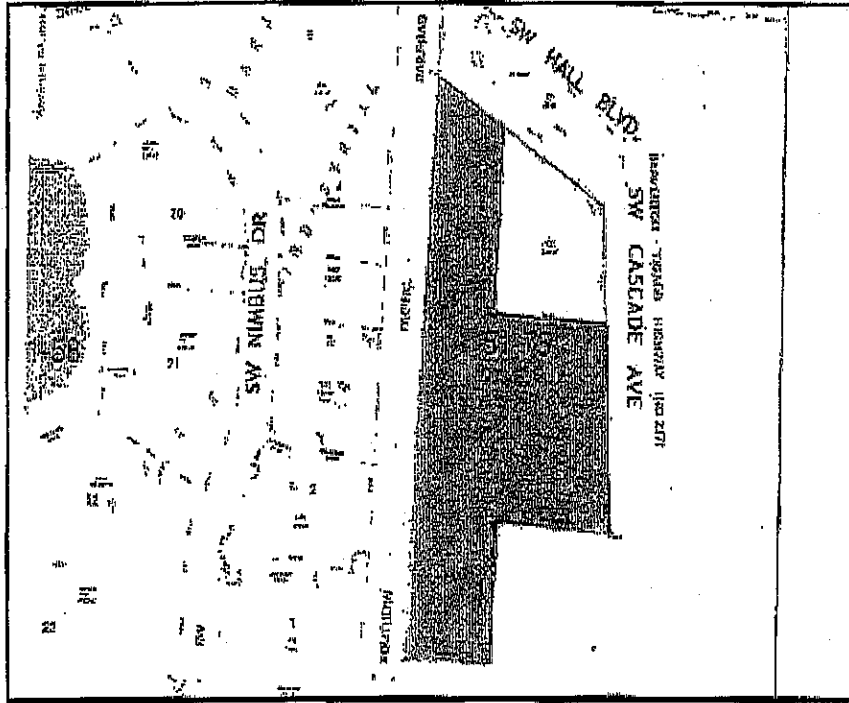
financing

Not Applicable - all cash sale

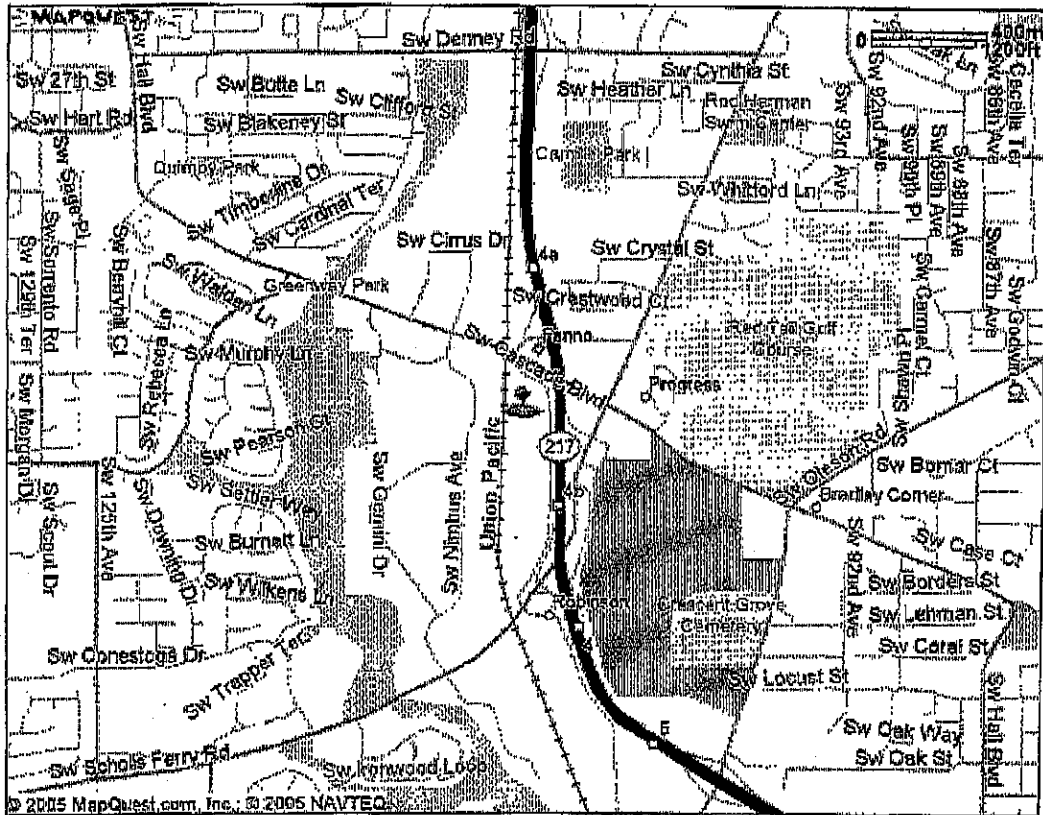
plat map

Map: 625-D/7 Legal: Por NW4 sec 27 T15 R1W WM together with easement for vehicular and pedestrian egress/ingress & utility install;

Comps No: WAC-47637-10-0420 Parcel Number: RD240028
1S127AD-00100 Title Co: Ticer Title



site map



This site map is derived from MapQuest.com Inc. No opinion is expressed concerning the accuracy of any information contained herein.

description

* additional contacts
Additional Listing Broker
Katy Durant
(503) 644-9400

Listing broker reported that prior to sale there was ground water contamination issues on subject property. Broker reported seller and all surrounding properties had to fund a 30 year cleanup project in that area. Seller paid for costs of remediation prior to sale but the cleanup was still ongoing at time of sale. Listing broker reported these contamination issues lowered the value of the land. Property fronts railroad tracks to the west.

* Sale Price: Buyer reported sale price was entirely for land value only and that there was no specific allocation of the price paid for the existing building.

* Topography: Listing broker reported property slopes to the west.

* Structures: At time of sale there was a 193,000 SF Industrial building. Building was a former Tyco/Viewmaster facility but had been vacant prior to sale. Broker reported buyer will be paying \$550,000 in demolition costs for the building. Please refer to Costar serial # GJ1099 for additional building information.

* Listing Broker: Additional Listing broker was Katy Durant with Trammell Crow, (503) 644-9400.

* APN: Map & Tax Lot #1S127AD0-0100

Doc Num / Transfer Tax
04113044 (\$5,400)

Recording Date: 09/29/2004

Q-S-T-R: AD-27-01-01
Confirmed by: Josh Lehman

NEW

APR 5 2005

Land Sale No.

Code: OCLS-1729 (LM) **Map No.:** 625

Location: North side of S.W. Beaverton-Hillsdale Highway just west of S.W. Griffith Drive

City: Beaverton **County:** Washington

Legal Description: Tax Lot 1200, Map 1S1W15AB

Grantor: Anita M. McGill

Grantee: Wells Fargo Bank

Date of Sale: October, 2004 **Recording:** 04122739

Sale Price: \$2,100,000

Terms: Cash

Cash Equiv. Price: \$2,100,000

Site Size: 1.58 acres or 68,825 sq.ft.
Price/Sq.Ft.: \$30.51
Zoning: RC-E (Regional Center East)
Access: This is a pad site within the Beaverton Town Square shopping center which has direct access from S.W. Beaverton-Hillsdale Highway
Shape: Basically rectangular
Topography: Level
Utilities: All available
Confirmed By: George Macoubray, listing broker at HSM Pacific Realty, Inc. (503-245-1400)

Exposure Time: Property was not available for sale. Plans were to develop this site with a 20,000 sq.ft. retail center and during the process of pre-leasing the proposed center, Wells Fargo Bank approached the owner about purchasing the property.

Comments: This is a pad site within the Beaverton Town Square shopping center. The site is asphalt paved and had been used for parking. Wells Fargo Bank purchased the site to build a bank branch.

This property previously sold in June, 2001 for \$1,300,000 or \$18.89 per sq.ft. Although the sale closed in June, 2001, the price was reportedly agreed to in January, 1998. This sale/resale reflects an appreciation of 61.5%.

NEW

APR . 5 2005

Land Sale No.:

Code: OCLS-1731 (LM) **Map No.:** 625

Location: 3585 S.W. Hall Blvd.

City: Beaverton **County:** Washington

Legal Description: Tax Lot 1500, Map 1S109DD

Grantor: HJW Properties, LLC

Grantee: Hall Street Appliance, LLC

Date of Sale: February, 2004 **Recording:** 04016653

Sale Price: \$2,650,000

Terms: Cash

Cash Equiv. Price: \$2,700,000 (\$2,650,000 + demolition cost of \$50,000)

Site Size: 2.14 acres or 93,218 sq.ft.

Price/Sq.Ft.: \$28.96

Zoning: CS

Access: S.W. Hall Blvd.

Shape: Slightly irregular but primarily rectangular

Topography: Generally level

Utilities: All available

Confirmed By: George Lampus, Real Estate Investment Group (503-222-1655)

Exposure Time: Several years

Comments:

This is the former Copeland Lumber yard site located along the north side of Hall Blvd., a short distance east of Cedar Hills Blvd. At the time of sale, the site was improved with a 16,927 sq.ft. building that was a retail unit for Copeland Lumber with a showroom, warehouse area and office space. The improvements were constructed in 1964 and were expanded in 1981. The sites zoning is CS, Community Commercial, which allows a wide range of commercial uses. It was purchased by an entity of Standard TV & Appliance who intended to tear down the existing building and replace it with a new retail/warehouse building. A sale price of \$2,700,000 had been negotiated and was reduced by \$50,000 for the estimated costs to demolish the existing improvements.

Planning Division
13125 SW Hall Boulevard
Tigard, OR 97223
(503) 639-4171



Fax

To: Mark Van	From: Cheryl Gaines
Fax: 503-682-1747	Pages: 3
Phone:	Date: 12/20/2004
Re: Measure 37 Claim Form	CC:
	Phone: (503) 639-4171 x 2451

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

HAWK'S BEARD TOWNHOMES A REPLAT OF PARCEL 2, PARTITION PLAT NO. 2000-007 IN THE NE 1/4 OF SECTION 33, T. 1 S., R. 1 W., WILLAMETTE MERIDIAN CITY OF TIGARD, WASHINGTON COUNTY, OREGON DATE: APRIL 9, 2003

* AMENDED BY 2003136704

RECORDED AS DOCUMENT NUMBER 2003105846

* AUTUMN PARK TOWNHOMES OWNERS ASSOCIATION

NOTES AND PLAT RESTRICTIONS

- 1) SUBJECT TO COVENANTS, CONDITIONS AND RESTRICTIONS, APPLICABLE TO ALL LOTS AND TRACTS, AS RECORDED IN DOCUMENT NO. 2003105846, WASHINGTON COUNTY DEED RECORDS.
- 2) THIS SUBDIVISION IS SUBJECT TO THE CONDITIONS OF APPROVAL FOR THE CITY OF TIGARD SUBDIVISION CASE NO. SUB 2002-00005 AND CITY OF TIGARD PLANNED DEVELOPMENT REVIEW CASE NO. PD 2002-00002.
- 3) TRACT "A", A PRIVATE ACCESS, SHALL BE OWNED AND MAINTAINED BY THE OWNERS OF LOTS 1-6 AND 17-22.
- 4) TRACT "B", "S.W. WOODBRIDGE PLACE", A PRIVATE STREET, SHALL BE OWNED AND MAINTAINED BY THE OWNERS OF LOTS 1 THROUGH 10.
- 5) TRACT "C", A PRIVATE ACCESS, SHALL BE OWNED AND MAINTAINED BY THE OWNERS OF LOTS 11 THROUGH 18.
- 6) TRACT "D", "S.W. BRIARWOOD PLACE", A PRIVATE STREET, SHALL BE OWNED AND MAINTAINED BY THE OWNERS OF LOTS 19 THROUGH 26.
- 7) TRACT "E", "S.W. BRIARWOOD PLACE", A PRIVATE STREET, SHALL BE OWNED AND MAINTAINED BY THE OWNERS OF LOTS 27 THROUGH 34.
- 8) TRACT "F", AN OPEN SPACE, SHALL BE OWNED AND MAINTAINED BY THE AUTUMN PARK TOWNHOMES OWNERS ASSOCIATION.
- 9) TRACT "G", A WATER QUALITY FACILITY, SHALL BE OWNED AND MAINTAINED BY THE CITY OF TIGARD.
- 10) TRACTS "A", "B", "C", "D" AND "E" ARE SUBJECT TO A PUBLIC UTILITY EASEMENT OVER THEIR ENTIRETY.
- 11) A PUBLIC UTILITY EASEMENT AND A PRIVATE STORM DRAINAGE EASEMENT IN FAVOR OF THE AUTUMN PARK TOWNHOMES OWNERS ASSOCIATION SHALL EXIST ALONG ALL LOT FRONTAGES AS NOTED ON PLAT.
- 12) THERE SHALL BE NO DIRECT MOTOR VEHICLE ACCESS TO OR FROM LOTS 1 THROUGH 11 ONTO SW 130TH AVENUE UNLESS AUTHORIZED BY THE GOVERNING BODY HAVING JURISDICTION OVER SAID ROAD.
- 13) TRACTS "A" THROUGH "E" ARE SUBJECT TO A LANDSCAPE EASEMENT OVER THEIR ENTIRETY FOR THE BENEFIT OF THE AUTUMN PARK TOWNHOMES OWNERS ASSOCIATION.
- 14) ALL LOTS FRONTING A PUBLIC STREET ARE SUBJECT TO A LANDSCAPE EASEMENT, CONCURRENT WITH THE PUBLIC UTILITY EASEMENT, AS SHOWN IN FAVOR OF THE CITY OF TIGARD.
- 15) TRACTS "A" THROUGH "E" ARE SUBJECT TO A PUBLIC SANITARY SEWER EASEMENT OVER THEIR ENTIRETY.
- 16) TRACTS "A" THROUGH "E" ARE SUBJECT TO A PRIVATE STORM DRAINAGE EASEMENT OVER THEIR ENTIRETY FOR THE BENEFIT OF ADJUTING LOTS.
- 17) DIRECT MOTOR VEHICLE ACCESS BETWEEN SW SCHOLLS FERRY ROAD AND PARCEL 2 IS LIMITED BY THE DECREE OF CONDEMNATION PER SUT NO. C50-114CV, WASHINGTON COUNTY CIRCUIT COURT. RIGHTS OF ACCESS TO AND FROM SW SCHOLLS FERRY ROAD IS LIMITED TO HIGHWAY ENGINEER'S STATION 1042+50 AND 50.00 FEET IN WIDTH FOR RIGHT TURN MOVEMENTS AND SHALL BE BUILT IN SUCH A MANNER AS TO COMPLETELY DISCOURAGE LEFT TURN MOVEMENTS.
- 18) A 12.50 FOOT LANDSCAPE EASEMENT IN FAVOR OF THE AUTUMN PARK TOWNHOMES OWNERS ASSOCIATION AND A PUBLIC SIDEWALK EASEMENT SHALL EXIST ALONG THE FRONTAGE OF TRACT B AS SHOWN.

NARRATIVE
THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE A PORTION OF PARCEL 2, PARTITION PLAT NO. 2000-007, WASHINGTON COUNTY PLAT RECORDS.

BASED ON BEARINGS AND BOUNDARY DETERMINATION PER PARTITION PLAT NO. 2000-007, WASHINGTON COUNTY PLAT RECORDS. THE MONUMENTS ON THE NORTH RIGHT-OF-WAY OF S.W. HAWK'S BEARD STREET AND WEST RIGHT-OF-WAY OF S.W. 130TH AVENUE ALONG WITH THE TWO MONUMENTS AS SHOWN ON THE EAST RIGHT-OF-WAY OF S.W. 130TH AVENUE HAVE BEEN DESTROYED BY CONSTRUCTION. THE ABOVE MENTIONED RIGHT-OF-WAY MONUMENTS AND LINES WERE REESTABLISHED PER SAID PARTITION PLAT RECORD DATA AND HOLDING CENTERLINE MONUMENTATION AS SHOWN ON SAID PARTITION PLAT.

SHEET INDEX

- SHEET 1 - NOTES AND PLAT RESTRICTIONS, NARRATIVE, SHEET INDEX, EXTERIOR BOUNDARY, LOT 63 AND CURVE TABLE
- SHEET 2 - LOTS 1-5, 17-22, TRACTS "A" & "E", A PORTION OF TRACT "B", LEGEND AND CURVE TABLES
- SHEET 3 - LOTS 7-16, TRACT "C", A PORTION OF TRACTS "B" AND "D", LEGEND AND CURVE TABLES
- SHEET 4 - LOTS 31-42, 58-62, A PORTION OF TRACTS "B" AND "D", LEGEND AND CURVE TABLES
- SHEET 5 - LOTS 23-30, 43-48, 50-56, A PORTION OF TRACTS "B" AND "E", TRACT "G", TRACT "F", LEGEND AND CURVE TABLES
- SHEET 6 - APPROVALS, SURVEYOR'S CERTIFICATE, SUBDIVISION PLAT CONSENT AFFIDAVIT, DECLARATION, ACKNOWLEDGEMENTS AND REMAINING MONUMENTATION STATEMENT

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
TROY T. TETSUKA
2041

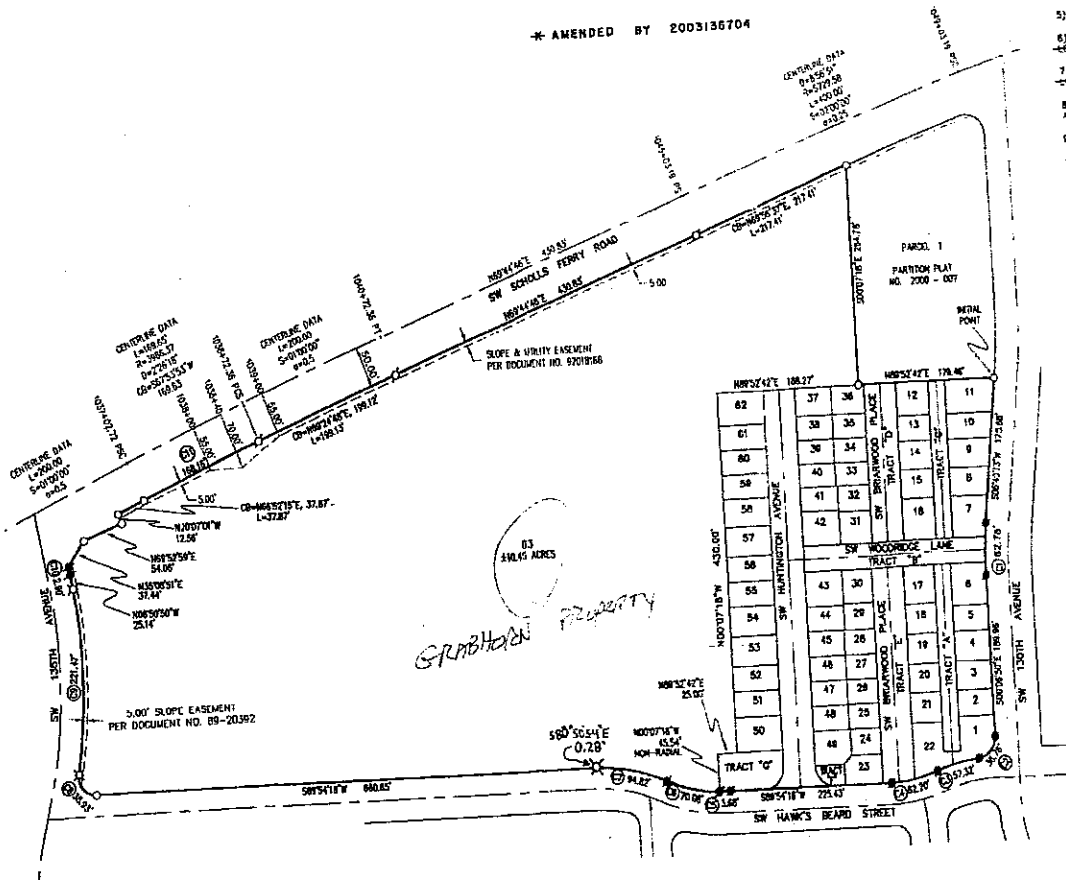
RENEWAL DATE 6-30-04

I HEREBY CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE PLAT OF "HAWK'S BEARD TOWNHOMES".

SHEET 1 OF 6
JOB NO. SPT053

TETSUKA ASSOCIATES, INC.
LAND SURVEY CONSULTING
9900 S.W. WALSHUR STREET, #110
PORTLAND, OR 97225
503.517.0682 FAX: 503.445.1300

SCALE: 1"=100'



LEGEND

- - DENOTES FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "G & L LAND SURVEYING INC." PER PARTITION PLAT NO. 2000-007
- - DENOTES FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "OSHO" PER SN 25453
- - DENOTES FOUND 5/8" IRON ROD WITH ALUMINUM CAP MARKED "WALKER & ASSOCIATES, INC." PER SN 23,214
- ✱ - DENOTES SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "TETSUKA ASSOC. INC."

CURVE/LOT	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD DIST
C1	6°47'03"	530.00'	62.75'	S03°15'42"W	62.72'
C2	84°35'07"	25.00'	36.75'	S42°20'44"W	33.54'
C3	14°30'51"	225.00'	53.30'	S78°50'22"W	57.12'
C4	20°21'51"	175.00'	62.20'	S78°43'22"W	61.57'
C5	17°12'14"	175.00'	70.08'	N88°29'35"W	3.68'
C6	22°56'23"	175.00'	70.08'	S77°25'11"E	69.61'
C7	24°00'49"	225.00'	94.82'	N78°01'18"W	94.17'
C8	10°12'32"	22.00'	38.93'	N39°24'02"W	34.05'
C9	20°08'28"	830.00'	221.47'	N01°34'24"E	220.33'
C10	5°32'12"	30.00'	2.90'	N03°04'14"W	2.90'
C11	1°41'47"	5872.56'	168.16'	N67°53'32"E	168.15'

M372005-00003